

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

BENNIE J. POTEET, II, Individually and	)	
by and through EVELYN POTEET, as	)	
conservator of Bennie Joe Poteet, II,	)	
	)	
<i>Plaintiffs,</i>	)	Case No. 1:05-CV-309
v.	)	
	)	Chief Judge Curtis L. Collier
POLK COUNTY, TENNESSEE, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**ORDER**

For the reasons contained in the accompanying memorandum, the Court **GRANTS IN PART** and **DENIES IN PART** Defendants Polk County, Tennessee, Polk County Sheriff's Department, Sheriff Bill Davis, Joshua Jenkins, Michael Griffith, Sarah Boring, and James Burris' (collectively "Defendants") motion for summary judgment in their official capacities (Court File No. 133) and **GRANTS** Defendants Sheriff Bill Davis, Joshua Jenkins, Michael Griffith, Sarah Boring, and James Burris' motion for summary judgment in their individual capacities (Court File No. 135).

Accordingly, all Plaintiff's claims against Defendants are **DISMISSED**, except (1) Plaintiff's claims pursuant to 42 U.S.C. § 1983 for denial and/or delay of medical care and excessive use of force and pursuant to state law for battery, intentional infliction of emotional distress, and negligence against Defendant Bobby Copeland in his individual capacity, and (2) Plaintiff's claim pursuant to 42 U.S.C. § 1983 against Polk County, Tennessee. The Court **ORDERS** that Polk County Sheriff's Department as well as Defendants Sheriff Bill Davis, Joshua Jenkins, Michael Griffith, Sarah Boring, and James Burris, in both their official and individual capacities, are **DISMISSED** from this case.

Therefore, this case will proceed to trial on (1) Plaintiff's claims pursuant to 42 U.S.C. § 1983 for denial and/or delay of medical care and excessive use of force and pursuant to state law for battery, intentional infliction of emotional distress, and negligence against Defendant Bobby Copeland in his individual capacity, and (2) Plaintiff's claim pursuant to 42 U.S.C. § 1983 against Polk County, Tennessee.<sup>1</sup>

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**

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<sup>1</sup> Plaintiff also has claims remaining against National Healthcare of Cleveland, Inc., d/b/a Cleveland Community Hospital and Dr. Adam Fall ("Medical Provider Defendants"). The Medical Provider Defendants have filed a motion to dismiss for lack of subject matter jurisdiction which is currently pending before this Court (Court File No. 128).